

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN RIC HOLDEN**, on February 7, 2001 at 3:20 P.M., in Room 303, Capitol.

ROLL CALL

Members Present:

Sen. Ric Holden, Chairman (R)
Sen. Pete Ekegren, Vice Chairman (R)
Sen. Mike Halligan (D)
Sen. Greg Jergeson (D)
Sen. Walter McNutt (R)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Gerald Pease (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Laramie Cumley, Committee Secretary
Doug Sternberg, Legislative Services

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 246, 1/31/01;
SB 259, 1/19/01
Executive Action: SB 245

The committee discussed and voted unanimously on a committee Senate Joint Resolution to be drafted. **EXHIBIT(ags31a01)**

HEARING ON HB 246

Sponsor: REP. KEITH BALES, HD 1, OTTER

Proponents: John Bloomquist, Montana Stockgrowers Association
Carol Mosher, Montana Cattlewomens' Association
Bill Garrison, Montana Stockgrowers Association
Carol Lambert, Women Involved in Farm Economics
Nancy Schlepp, Montana Farm Bureau Federation
Mike Murphy, Montana Water Resource Association
Riley Johnson, National Federation of International
Business
Mark Diehl, Representing himself
Mike Sjostrom, Montana Livestock Agriculture Credit
Incorporated
Cliff Cox, Montana Farm Bureau
Roy Andes, Representing himself
Stillwater County Commission

Opponents: Buzz and Darwin Doney, Representing themselves
Ben Speakthunder, Fort Belknap Indian Community
Al Smith, Montana Trial Lawyers Association

Opening Statement by Sponsor:

REP. KEITH BALES, HD 1, OTTER opened HB 246 by sharing the House floor vote on the bill. He explained what current law states, and the amendments that were adopted by the House Agriculture Committee. He said that this would protect our heritage.

Proponents' Testimony:

John Bloomquist presented written testimony. **EXHIBIT(ags31a02)**

Carol Mosher presented written testimony. **EXHIBIT(ags31a03)**

Bill Garrison shared an example of a man who gave two easements to the Forest Service and if an accident were to occur, he would be liable for the public under current law.

Carol Lambert stated women in agriculture will be forced to change their occupations if this bill does not pass, therefore, she stood in support of the bill.

Nancy Schlepp stood in support of the bill.

Mike Murphy expressed support the bill.

Riley Johnson explained his support for the bill.

Mark Diehl described personal examples of people running through parts of their 15 miles of fences bordering the highway. He said that since 1980, there has been 17 accidents involving his fence. Most of these accidents were alcohol related and unreported.

Mike Sjostrom expressed support for the bill.

Cliff Cox discussed the various possibilities of calves getting through a fence accidentally.

Roy Andes expressed concern with the inconsistencies in the bill in section 1. **EXHIBIT(ags31a04)** He also discussed further legal issues and presented a small book called the Montana Law Review. **EXHIBIT(ags31a05)**

SEN. RIC HOLDEN presented letters of support from: **Stillwater County Commissioner, L. Harold Blattie EXHIBIT(ags31a06)** and **Glenn and Doris Waller** from Circle, Montana. **EXHIBIT(ags31a07)**

Opponents' Testimony:

Buzz and Darwin Doney presented written testimony. **EXHIBIT(ags31a08)**

Ben Speakthunder presented written testimony. **EXHIBIT(ags31a09)**

Al Smith stated that this issue needs to be focused on the irresponsible landowners and "crack down on drunks".

Questions from Committee Members and Responses:

SEN. COREY STAPLETON asked if all towns or cities were connected with interstate or primary roads. **John Bloomquist** stated that this was not necessarily true. He referred to the title 60 provision.

SEN. RIC HOLDEN asked if the liability issue would be similar to an individual hitting a deer on the road. **John Bloomquist** answered, yes.

SEN. GERALD PEASE questioned if the department built fences along the roads that they build and he also asked how long these roadside fences were maintained. **Dave Galt, Montana Department of Transportation** stated yes, the department is required to fence in high hazard areas on primary or secondary highways although he could not answer questions regarding maintenance.

SEN. PEASE referred to line 10 of the bill and asked whose duty it was to keep animals from going on highways. **REP. BALES** referred to the exceptions in the bill and explained that it would not be the duty of the landowner or livestock owner to keep livestock off of the road because, in that case, all of the roads in Montana would have to be fenced. He said again, the livestock owner has no duty and this allows the livestock owner to turn livestock out into pasture.

SEN. STAPLETON asked if the primary National Highway System and the Interstate in the same category. **REP. BALES** said yes.

SEN. HOLDEN clarified **SEN. STAPLETON'S** question.

SEN. STAPLETON explained a near death experience regarding the subject of a cow being on the road and getting in a wreck in which nothing was done because it was considered open range.

SEN. JON TESTER asked the opinion of **Mr. Bloomquist** regarding cattle or horses being on the highway seven times in three months and if that would be gross negligence. **John Bloomquist** claimed that if the livestock owner were told to keep livestock off of the roadways, the police had called to discuss the issue with the livestock owner and nothing had changed, yes, this would pushing gross negligence.

SEN. HOLDEN asked how gravel county roads with cattle guards would be affected in the bill. **REP. BALES** referred to the language of the bill that explains that it would not be the duty of the landowner or the livestock owner to keep animals off of the road. He said that this language protects the questioned rural areas where people know there are cattle in the road.

Closing by Sponsor:

REP. BALES closed HB 246 by commenting on a few remarks from Bill Garrison regarding the man who gave the Forest Service right of ways and the point that **Mark Diehl** made about being responsible for your children and livestock that have minds of their own. He also presented a letter of support from the **Billhart Ranch Co.**
EXHIBIT(ags31a10)

HEARING ON SB 259

Sponsor: **SEN. JON TESTER, SD 45, BIG SANDY**

Proponents: **Blaine County Commissioners**

Pat Conway, Hill County
Louis Hagener, Hill County
Dave Galt, Director, Montana Department of
Transportation
Kathy Bessette, Hill County Commissioner
Toni Hagener, Hill County
Robert Myers, Hill County
John Bloomquist, Montana Stockgrowers Association
Dean Hanson, Hill County
REP. JOHN MUSGROVE, Representing himself
REP. MERLIN WOLERY, Representing himself

Opponents: none

Opening Statement by Sponsor:

SEN. JON TESTER, SD 45, BIG SANDY, opened SB 259 by explaining the State Park in Havre for which this bill was drafted. The park is 17 miles long and one mile wide. He stated that the park offers many recreational activities for the public. SEN. TESTER provided SB025901.ads amendment. EXHIBIT(ags31a11) He stated that this is the largest park in the United States. The federal government has mandated fences to be built in new construction projects. The bill exempts the park from such mandates because if the park were fenced, the usability of the park would be cut back drastically.

Proponents' Testimony:

Pat Conway presented written testimony. EXHIBIT(ags31a12)

Louis Hagener presented written testimony. EXHIBIT(ags31a13)

Dave Galt stood in support of the bill.

Kathy Bessette presented written testimony. EXHIBIT(ags31a14)

Toni Hagener presented written testimony. EXHIBIT(ags31a15)

Robert Myers presented written testimony. EXHIBIT(ags31a16)

John Bloomquist stated the Stockgrowers support the bill.

Dean Hanson explained the park is a key fishing area. People come from all over Montana and he has been on an advisory board for the park for 42 years.

REP. JOHN MUSGROVE asked for the committee to look favorable upon this bill.

REP. MERLIN WOLERY spoke on behalf of the bill and commented on all of the hard work and compromise put into the bill.

SEN. HOLDEN presented a letter of support for the bill from **Blaine County Commissioners. EXHIBIT (ags31a17)**

Opponents' Testimony: none

Questions from Committee Members and Responses:

SEN. PETE EKEGREN clarified the location of the park and asked if it was open range or leased land. **SEN. TESTER** stated that the park is located at the edge of the Bears Paw Mountains and that the land is open range which is leased.

SEN. EKEGREN clarified the lease agreement for the ranchers who run cattle on the park. **Pat Conway** stated that there is no formal lease and that ranchers pay by the head for cattle monthly and all of the cattle intermingle in the park.

SEN. EKEGREN asked why the fencing issue is so important and questioned controlled access to the park. **Pat Conway** stated that there are controlled access areas although people who fish at the park may park and walk into the park from the road.

SEN. HOLDEN clarified access to water for cattle was also an issue and also questioned the county's concern for the highways liability. **SEN. HOLDEN** also clarified that cattle do not graze in the park during the summer months.

SEN. WALTER MCNUTT asked if the bill would conflict with the previous bill. **John Bloomquist** stated that he looked closely at the bills similarities and answered no, he did not think it would conflict with the previous bill.

SEN. HOLDEN asked what the speed limit was on the discussed road. **Dave Galt** answered that he did not know what the current speed limit is and that in the new construction process, the speed limit issue will be negotiated with the county and the highway commission.

Closing by Sponsor:

SEN. TESTER closed by again explaining the shape of the park and commented on the support of the community on this issue.

EXECUTIVE ACTION ON SB 245

SEN. HOLDEN presented amendments for the bill. **EXHIBIT(ags31a18)** amendment **SB024501.ads**. He explained the amendments which read that Silva culture, the farming of trees, would be included in the bill and only one account per household could be created for a person. He also submitted correspondence from the **Montana Bankers Association**. **EXHIBIT(ags31a19)**

The committee discussed the eligibility requirements for the bill and gave numerous examples and scenarios. **Tape 3.**

SEN. TESTER asked if a farm employee or an employee of a farm corporation would be eligible for the account.

SEN. LINDA NELSON questioned if a family farm corporation would be eligible for the account.

SEN. HOLDEN explained the eligibility for the account would have to be granted to a person not a corporation because he said this was meant for persons primarily engaged in the business of agriculture, which would be the owner of the farm. Eligibility would also be determined by reviewing previous tax returns and determining if 50% of the earned income was related to agriculture.

SEN. TESTER stated that a lot of small farms incorporate for tax purposes such as deducting health insurance which can only be done if a farm is incorporated.

SEN. MIKE HALLIGAN asked if there were any way that a person could take advantage of this program because the definitions were so "wide open".

SEN. HOLDEN referred to page 1, line 24 for the definitions discussed.

SEN. HALLIGAN also mentioned the eligibility of retirees.

SEN. TOM ZOOK questioned the percentage of income requirement established in the gas tax refund statutes.

SEN. HOLDEN stated that the department had made a rule that "primarily engaged" meant that 50% of a persons income would have to come from agriculture business.

SEN. ZOOK questioned **SEN. HOLDEN'S** intent of limitation in the bill.

SEN. MCNUTT stated it cannot be assumed that the 50% eligibility requirement could be applied to this bill. This requirement also needs to be drafted into the bill.

SEN. NELSON stated that she would like to see some of the definitions in the bill be more defined and also suggested including small farm corporations in some way.

SEN. HOLDEN noted **SEN. STAPLETON** had an amendment that changed "bank or credit union" to "financial institution".

Executive Action was ended on SB 245. It was decided by the committee to discuss SB 245 again at a later date.

EXECUTIVE ACTION ON SB 196

SEN. HOLDEN discussed amendments he requested. **SB19602.ads** which regarded labeling of produce. **EXHIBIT(ags31a20)**

SEN. HALLIGAN presented amendments he had requested and explained them, stating that produce would not be excluded in the bill, but the use of a placard to label produce would be required. amendment **SB019601.ads EXHIBIT(ags31a21)**

SEN. HOLDEN moved amendment **SB19601.ads** be adopted.

SEN. HOLDEN withdrew his motion on the amendments.

SEN. HALLIGAN further explained amendment **SB19601.ads. EXHIBIT(ags31a22)**

SEN. HOLDEN presented and explained amendment **SB19604.ads. EXHIBIT(ags31a23)**

Motion/Vote: **SEN. HOLDEN** moved that **AMENDMENT SB19604.ads** BE ADOPTED. Motion carried unanimously.

SEN. HOLDEN presented and explained amendment **SB19606.ads. EXHIBIT(ags31a24)**

Motion/Vote: **SEN. HOLDEN** moved that **AMENDMENT SB19606.ads** BE ADOPTED. Motion carried unanimously.

Motion/Vote: **SEN. HALLIGAN** moved that **AMENDMENTS SB19601.ADS** BE ADOPTED. Motion carried 7-3.

SEN. HOLDEN stated that the amendments make the bill a, "made in Montana" bill which he did not agree with.

Motion/Vote: **SEN. HALLIGAN** moved that **SB 196 DO PASS AS AMENDED.**
Motion carried unanimously.

ADJOURNMENT

Adjournment: 7:00 P.M.

SEN. RIC HOLDEN, Chairman

LARAMIE CUMLEY, Secretary

RH/LC

EXHIBIT (ags31aad)